

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 22, 2015

SENATE BILL

No. 484

Introduced by Senator Beall

(Principal coauthor: Assembly Member Chiu)

(Coauthors: Senators Mitchell and Monning)

February 26, 2015

An act to amend Section 1536 of, and to add Sections 1538.8 and 1538.9 to, the Health and Safety Code, and to amend Section 11469 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 484, as amended, Beall. Juveniles.

(1) The California Community Care Facilities Act provides for the licensure and regulation of community care facilities, including foster family homes and group homes, by the State Department of Social Services. A violation of this act is a misdemeanor.

Existing law requires the department director, at least annually, to publish and make available to interested persons a list covering all licensed community care facilities, except as specified, and the services for which each facility has been licensed or issued a special permit.

This bill would require the department director to compile specified information regarding administering psychotropic medications to children in those facilities and to post that information to the department's Internet Web site. The bill would require the department to establish a methodology to identify those group homes that have disproportionately high levels of psychotropic drug usage. The bill would also require the department, for the facilities identified by the methodology that it establishes, to visit those facilities at least once a

year to examine specified factors that contribute to the high utilization of psychotropic medications. The bill would require a facility that is found to have a high utilization of dangerous psychotropic medication regimens and inadequate alternative, less invasive psychosocial, crisis management, and other services, to submit a plan to address steps the facility shall take to reduce inappropriate prescribing and treatment regimens within 60 days of the visit. The bill would require the department to monitor the facility's implementation of that plan and make a report, as provided. Because this bill would create a new crime, the bill would impose a state-mandated local program.

(2) Existing law requires the department, on or before January 1, 2016, in consultation with specified associations and other stakeholders, to develop additional performance standards and outcome measures that require group homes to implement programs and services to minimize law enforcement contacts with minors in group homes or under supervision of group home staff.

This bill would require the department, on or before January 1, 2017, in consultation with specified associations and other stakeholders, to develop additional performance standards and outcome measures that require group homes to implement programs and services to reduce utilization of psychotropic medications for children in group homes. The bill would also delete an obsolete provision.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1536 of the Health and Safety Code is
- 2 amended to read:
- 3 1536. (a) (1) At least annually, the director shall publish and
- 4 make available to interested persons a list or lists covering all
- 5 licensed community care facilities, other than foster family homes
- 6 and certified family homes of foster family agencies providing
- 7 24-hour care for six or fewer foster children, and the services for
- 8 which each facility has been licensed or issued a special permit.

1 (2) For a group home, transitional housing placement provider,
2 community treatment facility, or runaway and homeless youth
3 shelter, the list shall include both of the following:

4 (A) The number of licensing complaints, types of complaint,
5 and outcomes of complaints, including citations, fines, exclusion
6 orders, license suspensions, revocations, and surrenders.

7 (B) The number, types, and outcomes of law enforcement
8 contacts made by the facility staff or children, as reported pursuant
9 to subdivision (a) of Section 1538.7.

10 (b) Subject to subdivision (c), to encourage the recruitment of
11 foster family homes and certified family homes of foster family
12 agencies, protect their personal privacy, and to preserve the security
13 and confidentiality of the placements in the homes, the names,
14 addresses, and other identifying information of facilities licensed
15 as foster family homes and certified family homes of foster family
16 agencies providing 24-hour care for six or fewer children shall be
17 considered personal information for purposes of the Information
18 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
19 of Title 1.8 of Part 4 of Division 3 of the Civil Code). This
20 information shall not be disclosed by any state or local agency
21 pursuant to the California Public Records Act (Chapter 3.5
22 (commencing with Section 6250) of Division 7 of Title 1 of the
23 Government Code), except as necessary for administering the
24 licensing program, facilitating the placement of children in these
25 facilities, and providing names and addresses only to bona fide
26 professional foster parent organizations upon request.

27 (c) Notwithstanding subdivision (b), the department, a county,
28 or a foster family agency may request information from, or divulge
29 information to, the department, a county, or a foster family agency,
30 regarding a prospective certified parent, foster parent, or relative
31 caregiver for the purpose of, and as necessary to, conduct a
32 reference check to determine whether it is safe and appropriate to
33 license, certify, or approve an applicant to be a certified parent,
34 foster parent, or relative caregiver.

35 (d) The department may issue a citation and, after the issuance
36 of that citation, may assess a civil penalty of fifty dollars (\$50) per
37 day for each instance of a foster family agency's failure to provide
38 the department with the information required by subdivision (h)
39 of Section 88061 of Title 22 of the California Code of Regulations.

(e) The Legislature encourages the department, when funds are available for this purpose, to develop a database that would include all of the following information:

(1) Monthly reports by a foster family agency regarding family homes.

(2) A log of family homes certified and decertified, provided by a foster family agency to the department.

(3) Notification by a foster family agency to the department informing the department of a foster family agency's determination to decertify a certified family home due to any of the following actions by the certified family parent:

(A) Violating licensing rules and regulations.

(B) Aiding, abetting, or permitting the violation of licensing rules and regulations.

(C) Conducting oneself in a way that is inimical to the health, morals, welfare, or safety of a child placed in that certified family home.

(D) Being convicted of a crime while a certified family parent.

(E) Knowingly allowing any child to have illegal drugs or alcohol.

(F) Committing an act of child abuse or neglect or an act of violence against another person.

(f) At least annually, the department shall post to its Internet Web site a summary progress report with data that excludes personally identifiable information of the information gathered pursuant to Section 1538.8.

SEC. 2. Section 1538.8 is added to the Health and Safety Code, to read:

1538.8. (a) In order to identify group homes in which psychotropic medications may be inappropriately administered to children the director shall compile, at least annually, the following information concerning each home:

(1) The number of children in the facility to whom psychotropic medications were administered.

(2) The number of children in the facility who are 6 to 11 years of age, inclusive, to whom psychotropic medications were administered.

(3) The number of children in the facility who are 12 to 17 years of age, inclusive, to whom psychotropic medications were administered.

1 (4) The number of children for whom the juvenile court
2 preauthorized the administration of psychotropic medication.

3 (5) The number of children to whom psychotropic medications
4 were administered on an emergency basis.

5 (6) The number of children to whom antipsychotic, mood
6 stabilizing, or antidepressant medications were administered.

7 (7) The number of children who received two or more drugs
8 from the same class, including, but not limited to, antidepressants,
9 antipsychotics, and antianxiety medications.

10 (8) The number of children who received two or more
11 psychotropic medications concurrently, and whether those children
12 received two, three, four, or more than four psychotropic
13 medications concurrently.

14 (9) The number of children who received one or more
15 medications for more than 90 days.

16 (10) The number of children who received psychosocial services
17 while in a group home placement while they received a
18 psychotropic medication.

19 (11) The number of children who received a dosage of a
20 psychotropic medication at a dosage above the maximum dosage
21 approved by the federal Food and Drug Administration.

22 (12) The number of children who received metabolic monitoring
23 in accordance with professional standards of care while they
24 received psychotropic medication.

25 (13) The number of children who were prescribed antipsychotic
26 medications for a use not approved by the federal Food and Drug
27 Administration.

28 (b) The data in subdivision (a) concerning psychotropic
29 medication, mental health services, and placement shall be drawn
30 from existing data systems, including, but not limited to, the
31 Medicaid Management Information System's medical and
32 pharmacy claims data, and the Child Welfare Services/Case
33 Management System, through the data sharing agreement between
34 the State Department of Health Care Services and the State
35 Department of Social Services.

36 SEC. 3. Section 1538.9 is added to the Health and Safety Code,
37 to read:

38 1538.9. (a) (1) (A) The department, based upon the
39 information compiled pursuant to Section 1538.8, shall consult
40 with the foster care ombudsman and stakeholder quality

1 improvement workgroups to establish a methodology to identify
2 those group homes that have disproportionately high levels of
3 psychotropic drug usage warranting additional review of the
4 facility.

5 *(B) On or after January 1, 2020, the department shall consult*
6 *with the foster care ombudsman and stakeholder quality*
7 *improvement workgroups and revise, if necessary, the methodology*
8 *developed under subparagraph (A).*

9 (2) The department shall visit facilities identified in paragraph
10 (1) at least once a year to review the ~~facilities plan~~ *facilities' plans*
11 of operation, policies, procedures, practices, child-to-staff ratios,
12 staff qualifications and training, implementation of children's
13 needs and services plan, and other factors that the department
14 determines contribute to the high utilization of dangerous
15 psychotropic medication regimens and low utilization of
16 monitoring and psychosocial services.

17 (3) The department shall perform visits pursuant to paragraph
18 (2) with input from stakeholders, including, but not limited to, the
19 foster care ombudsman and foster care mental health ombudsman,
20 foster youth, foster youth advocates, county welfare departments,
21 and county mental health departments.

22 (4) The department shall include in each visit confidential
23 discussions with current and former foster youth placed in the
24 facility's care and confidential discussions with physicians
25 identified as prescribing the medications. The State Department
26 of Health Care Services and the State Department of Social
27 Services shall, using existing data systems, identify prescribers'
28 names, addresses, and contact information in order to facilitate
29 interviews with providers.

30 (b) If, during a visit pursuant to subdivision (a), the department
31 finds that the facility has a high utilization of dangerous
32 psychotropic medication regimens, based on measures established
33 pursuant to this section and inadequate alternative, less invasive
34 psychosocial, crisis management, and other services, the facility
35 shall submit to the department a plan to address the steps that the
36 facility shall take to reduce inappropriate prescribing and treatment
37 regimens within 60 days of the visit. The plan shall do the
38 following:

1 (1) Include an improved crisis management plan, including
2 deescalation techniques and procedures in which their staff will
3 be trained.

4 (2) Include an overall behavioral management plan which shall
5 be a trauma-informed plan.

6 (3) Identify a quantifiable goal to decrease the use of
7 antipsychotic medications for behavioral control, to decrease
8 polypharmacy, and to decrease the use of pro re nata medications.

9 (4) Identify a quantifiable goal of appropriate metabolic
10 monitoring as set forth in the state prescribing guidelines and
11 psychosocial, physical, mental, behavioral, and nutritional services
12 for children previously or currently prescribed psychotropic
13 medications while placed in that facility.

14 (c) The department shall monitor a facility's implementation of
15 the plan submitted pursuant to subdivision (b) to determine all of
16 the following:

17 (1) Whether the facility has reduced the rate at which residents
18 are administered pro re nata, multiple, and off-label psychotropic
19 medications, and, if so, the percentage decrease in the
20 administration of those medications.

21 (2) Whether and to what extent alternative, less invasive
22 treatments are being provided to residents, and, if so, the percentage
23 increase in the provision of those services.

24 (3) Whether and to what extent appropriate metabolic monitoring
25 is being conducted and, if so, the percentage increase in the
26 provision of appropriate monitoring.

27 (d) Following an inspection pursuant to subdivision (a), the
28 Community Care Licensing Division shall provide a report to the
29 department's Children and Family Services Division and to any
30 other public agency that has certified the facility's program or any
31 component of the facility's program, including, but not limited to,
32 the State Department of Health Care Services, which certifies
33 group homes pursuant to Section 4096.5 of the Welfare and
34 Institutions Code.

35 (e) (1) Notwithstanding the rulemaking provisions of the
36 Administrative Procedure Act (Chapter 3.5 (commencing with
37 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
38 Code), until emergency regulations are filed with the Secretary of
39 State, the department may implement this section through
40 all-county letters or similar instructions from the director.

(2) On or before January 1, 2017, the department shall adopt regulations to implement this section. The initial adoption, amendment, or repeal of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the department may twice request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code. The department shall adopt final regulations on or before January 1, 2018.

SEC. 4. Section 11469 of the Welfare and Institutions Code is amended to read:

11469. (a) The department, in consultation with group home providers, the County Welfare Directors Association of California, the Chief Probation Officers of California, the California Mental Health Directors Association, and the State Department of Health Care Services, shall develop performance standards and outcome measures for determining the effectiveness of the care and supervision, as defined in subdivision (b) of Section 11460, provided by group homes under the AFDC-FC program pursuant to Sections 11460 and 11462. These standards shall be designed to measure group home program performance for the client group that the group home program is designed to serve.

(1) The performance standards and outcome measures shall be designed to measure the performance of group home programs in areas over which the programs have some degree of influence, and in other areas of measurable program performance that the department can demonstrate are areas over which group home programs have meaningful managerial or administrative influence.

(2) These standards and outcome measures shall include, but are not limited to, the effectiveness of services provided by each group home program, and the extent to which the services provided by the group home assist in obtaining the child welfare case plan objectives for the child.

(3) In addition, when the group home provider has identified as part of its program for licensing, ratesetting, or county placement purposes, or has included as a part of a child's case plan by mutual

1 agreement between the group home and the placing agency,
2 specific mental health, education, medical, and other child-related
3 services, the performance standards and outcome measures may
4 also measure the effectiveness of those services.

5 (b) Regulations regarding the implementation of the group home
6 performance standards system required by this section shall be
7 adopted no later than one year prior to implementation. The
8 regulations shall specify both the performance standards system
9 and the manner by which the AFDC-FC rate of a group home
10 program shall be adjusted if performance standards are not met.

11 (c) Except as provided in subdivision (d), effective July 1, 1995,
12 group home performance standards shall be implemented. Any
13 group home program not meeting the performance standards shall
14 have its AFDC-FC rate, set pursuant to Section 11462, adjusted
15 according to the regulations required by this section.

16 (d) A group home program shall be classified at rate
17 classification level 13 or 14 only if all of the following are met:

18 (1) The program generates the requisite number of points for
19 rate classification level 13 or 14.

20 (2) The program only accepts children with special treatment
21 needs as determined through the assessment process pursuant to
22 paragraph (2) of subdivision (a) of Section 11462.01.

23 (3) The program meets the performance standards designed
24 pursuant to this section.

25 (e) Notwithstanding subdivision (c), the group home program
26 performance standards system shall not be implemented prior to
27 the implementation of the AFDC-FC performance standards
28 system.

29 (f) On or before January 1, 2016, the department, in consultation
30 with the County Welfare Directors Association of California, the
31 Chief Probation Officers of California, the California Mental
32 Health Directors Association, research entities, foster youth,
33 advocates for foster youth, foster care provider business entities
34 organized and operated on a nonprofit basis, Indian tribes, and
35 other stakeholders, shall develop additional performance standards
36 and outcome measures that require group homes to implement
37 programs and services to minimize law enforcement contacts and
38 delinquency petition filings arising from incidents of allegedly
39 unlawful behavior by minors occurring in group homes or under
40 the supervision of group home staff, including individualized

1 behavior management programs, emergency intervention plans,
2 and conflict resolution processes.

3 (g) On or before January 1, 2017, the department, in consultation
4 with the County Welfare Directors Association of California, the
5 Chief Probation Officers of California, the California Mental
6 Health Directors Association, research entities, foster youth,
7 advocates for foster youth, foster care provider business entities
8 organized and operated on a nonprofit basis, Indian tribes, and
9 other stakeholders, shall develop additional performance standards
10 and outcome measures that require group homes to implement
11 programs and services to reduce the utilization of psychotropic
12 medications for children in group homes, including individualized
13 behavior management programs, emergency intervention plans,
14 and conflict resolution processes.

15 SEC. 5. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.